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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,816	08/03/2001	Allen G. Kirk	AD6738 US NA	8330

23906 7590 10/06/2003

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

EXAMINER

BARRY, CHESTER T

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,816

Applicant(s)

KIRK, ALLEN G.

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4-6</u> . | 6) <input type="checkbox"/> Other: |

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The specification is objected to for improper trademark usage. After each instance of Abscent®-3000, the word “zeolite” or “deodorizing powder” should appear.

In use, trademarks should be used as adjectives modifying the generic good.

Claims 20 – 21 are rejected under 35 U.S.C. Sec. 102(e) as clearly anticipated by USP 6179141 to Nakamura. See Nakamura Fig 4 (resealable cap having zeolite liner) and col / lines 1/18-30; 2/51-56, 67; 3/50-62; 4/10; 5/4-25, 49-52. Silver zeolite is recognized in the art as having odor-scalping properties, as shown, for example, by USP 5950435 to Kaizuka (col / lines 12-23 and associated figures). Nakamura is read in the light of Kaizuka – the former needn't be modified by the latter to meet each limitation of the claimed invention.

Claims 1 – 2, 4 – 15, 17 – 19 are rejected under 35 U.S.C. Sec. 103(a) as obvious over the admitted state of the prior art in view of Nakamura read in the light of Kaizuka. Applicants appear to have admitted that the process of treating water in situ to sterilize the water comprising the steps of: (a) filling a polyester plastic container with water; (b) sterilizing the water by employing a sterilizing treatment, e.g., ozonation at 20 – 50°C , UV, or e⁻-beam treatment, or by adding a sterilizing agent, e.g., chlorine gas, to the plastic container; (c) sealing the plastic container with a cap having an interior surface.

The claimed invention differs from the admittedly old process in that the cap comprises an odor-scalping material such that any unwanted odors or tastes produced

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by the sterilization treatment or by the addition of the sterilizing agent are absorbed by the odor-scalping material.

Nakamura suggests affixedly lining caps for containing sterilized drinking water with silver zeolite, a known deodorant (odor-scalping) material (as shown by Kaizuka), to reduce bacterial contamination. Only the cap liner has zeolite (about 0.5 – 10% by weight of liner mass)(col 2 line 60). The assembly is capped "immediately" (col 1 line 28). The reason the prior art motivates the skilled artisan to make the combination (reduced risk of bacterial contamination) upon which the claim reads needn't be the same as that which motivated applicant to invent or claim the claimed invention (odor reduction).

Claims 3 and 16 are rejected under 35 U.S.C. Sec. 103(a) as obvious over the admitted state of the prior art in view of Nakamura read in the light of Kaizuka, as applied to claims 2 and 13 above, respectively, further in view of USP 4234456 to Kamiya. Kamiya teaches that the pore size of silver zeolite is on the order of 10 A.

Claims 20 – 21 are rejected under 35 U.S.C. Sec. 102(e) as clearly anticipated by Nakamura.



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